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UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

MIRSAD HAJRO, JAMES R. MAYOCK,

Plaintiffs,

v.

UNITED STATES CITIZENSHIP AND
 IMMIGRATION SERVICES;

T. DIANE CEJKA, Director,
 USCIS National Records Center;
 ROSEMARY MELVILLE, USCIS District
 Director of San Francisco;

MICHAEL CHERTOFF, Secretary,
 Department of Homeland Security;
 MICHAEL B. MUKASEY, Attorney General
 Department of Justice,

Defendants.

No. C 08-1350 RMW

**JOINT CASE MANAGEMENT
 STATEMENT; and [Proposed] ORDER**

1. Jurisdiction and Service:

The basis asserted by plaintiff for this Court's jurisdiction is 5 U.S.C. § 552(a)(4)(B), 5 U.S.C. §551 *et seq.*, 5 U.S.C. § 555(b), §702, §704 and §706, 28 U.S.C. §1331 and 5 U.S.C. §552 *et seq.*
 The parties do not dispute that venue is proper in this district. No issues exist regarding personal jurisdiction or venue, and no parties remain to be served.

2. Facts:

On November 19, 2007, Plaintiff Hajro filed a request under the Freedom of Information Act

(FOIA) with the National Records Center seeking a copy of his alien registration file. On March 27, 2008, the National Records Center identified 442 pages responsive to Plaintiffs' request, and forwarded 356 pages in its entirety, withheld 78 pages in full and released 8 pages in part. The Plaintiffs filed the amended complaint on June 10, 2008 seeking an injunctive relief to enforce the time requirements under FOIA, and enforcement of the terms of a settlement agreement related to FOIA entered between Plaintiff Mayock and the Defendants. On July 31, 2008, the National Records Center released an additional 13 pages from Plaintiff Hajro's file. On July 31, 2008, Defendants also provided Plaintiffs with a Vaughn Index.

3. Legal Issues:

1. Whether the FOIA "Track Three" policy (and 6 CFR 5.5(d)) violate the Mayock settlement agreement regarding requests for expedited FOIA processing.

2. Whether Defendants' denial of Plaintiff Hajro's request for expedited FOIA processing violated the Mayock settlement agreement.

3. Whether Defendants' failure to provide Plaintiff Hajro with a response to his FOIA request within 20 days violated the FOIA at 5 U.S.C. § 552(a)(6)(A) and the FOIA regs at 6 CFR 5.6(b).

4. Whether Defendants' failure to notify Plaintiff Hajro of the unusual circumstances preventing Defendants from processing Plaintiff's FOIA request within 20 days violated the FOIA regs at 6 CFR § 5.5(c)(1).

5. Whether the documents Defendants withheld after Plaintiff's FOIA request were properly exempt from disclosure under FOIA.

6. Whether Defendants have a pattern or practice of failing to comply with the time requirements set forth in 5 U.S.C. § 552(A),(B),(C).

7. Whether the withholding of the documents pursuant to Plaintiff's FOIA request violated Plaintiff Hajro's due process rights in that he was prevented from adequately preparing his N-400 denial appeal brief.

8. Whether the FOIA Track 3 policy violates equal protection.

9. Whether the FOIA Track 3 policy circumvented the advance public notice and comment requirements of section 553 of the APA, specifically considering the agreement in Mayock.

1 4. Motions:

2 Defendants intend to file a motion for summary judgment in accordance with the Local Rules
3 and the Fed. R. Civ. P.

4 5. Amendment of Pleadings:

5 No parties, claims or defenses are expected to be added or dismissed.

6 6. Evidence Preservation:

7 The parties do not have any evidence that falls within this category.

8 7. Disclosures:

9 The parties believe that the initial disclosure requirements of Fed. R. Civ. P. 26 do not apply to
10 this case.

11 8. Discovery:

12 Plaintiffs intend to take discovery. Defendants do not believe discovery is appropriate in this
13 case and will object.

14 9. Class Actions:

15 N/A

16 10. Related Cases:

17 On March 21, 2008, the Court found CV-06-7827 JW is not related to this case.

18 11. Relief:

19 Plaintiffs ask this Court to compel Defendants to provide Plaintiff Hajro a copy of all withheld
20 documents, direct Defendants to amend "Track Three" processing of FOIA requests to provide for
21 priority processing upon proof that substantial due process rights of the requestor would be
22 impaired by the failure to process immediately, issue a permanent injunction requiring Defendants
23 to 1) provide a copy of a requestor's file within the twenty day time limit mandated in 5 U.S.C. §
24 552(a)(6)(A); 2) give written notice if a twenty day extension of time is needed unusual
25 circumstances as mandated by § 552(a)(b)(B); establish a procedure to advise a requestor of
26 his/her right and the procedures to appeal the decision if a request for expedited processing is
27 denied, and for reasonable attorney's fees.

1 12. Settlement and ADR:

2 An ADR Phone Conference is scheduled for August 13, 2008.

3 13. Consent to Magistrate Judge for All Purposes:

4 The parties consent to magistrate judge jurisdiction.

5 14. Other References:

6 The parties do not believe that this case is suitable for reference to binding arbitration, a
7 special master, or the Judicial Panel on Multidistrict Litigation.

8 15. Narrowing of Issues:

9 The parties do not believe that the issues can be narrowed by agreement or by motion, and do
10 not have suggestions to expedite the presentation of evidence at trial (e.g. through summaries or
11 stipulated facts), and any request to bifurcate issues, claims or defenses.

12 16. Expedited Schedule:

13 Defendants believe this matter can be resolve on a motion for summary judgment.

14 17. Scheduling:

15 Defendants will file a motion for summary judgment after the initial case management
16 conference in accordance with the Local Rules and the Fed. R. Civ. P.

17 18. Trial:

18 The parties do not anticipate the need for a trial in this case.

19 19. Disclosure of Non-party Interested Entities or Persons:

20 The parties' intend to file the "Certification of Interested Entities or Persons" required by Civil
21 Local Rule 3-16.

22 20. Such other matters as may facilitate the just, speedy and inexpensive disposition of this
23 matter.

24 None.

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1 Dated: August 8, 2008

Respectfully submitted,

2 JOSEPH P. RUSSONIELLO
3 United States Attorney

4
5 /s/
6 ILA C. DEISS¹
7 Assistant United States Attorney
8 Attorneys for Defendants

9 Dated: August 8, 2008

10 /s/
11 KIP EVAN STEINBERG
12 Attorney for Plaintiffs

13 **CASE MANAGEMENT ORDER**

14 The Joint Case Management Statement and Proposed Order are hereby adopted by the
15 Court as the Case Management Order for the case, and the parties are ordered to comply with this
16 Order.

17 Date:

18 RONALD M. WHYTE
19 United States District Judge

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27 ¹I, Ila Deiss, hereby attest that I have on file all holograph signatures for any signatures
28 indicated by a “conformed” signature (/s/) within this e-filed document.